

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Adolfo J. de Bold Art Unit : 1645
Serial No. : 10/712,335 Examiner : Vanessa L. Ford
Filed : November 13, 2003 Conf. No. : 1171
Title : PREDICTING, DETECTING AND MONITORING TREATMENT OF
CARDIOMYOPATHIES AND MYOCARDITIS

RESPONSE TO RESTRICTION REQUIREMENT

In response to the Office action mailed September 28, 2006 ("the present action"), Applicant elects the invention of Group I, claims 1-21. The election is made with traverse.

For the reasons that follow, the Examiner is respectfully asked to reconsider and withdraw the restriction of the pending claims (claims 1-23). In the present action (see page 2), the Examiner placed claims 1-21 in Group I; claim 22 in Group II; and claim 23 in Group III. The Examiner then stated,

Groups I, II and III are related as different methods. They differ because they have different goals, require different method steps, parameters and use different components (the present action at page 3).

The Examiner is asked to note, however, that all of the methods have been classified within the same class (435) and subclass (4; the present action at page 2). The steps of the claimed methods are quite similar, and all of the methods relate to diagnosing or evaluating the treatment of the same two conditions: cardiomyopathy and/or myocarditis. More specifically, all of the methods require determining the relative level of a brain natriuretic peptide (BNP) or an atrial natriuretic peptide (ANF) in order to either diagnose cardiomyopathy and/or myocarditis (see claim 1, of Group I, and claim 23, of Group III) or to monitor the effectiveness of a treatment for these same diseases (see claim 22 of Group II). Thus, a search for prior art that teaches or suggests that one should examine the level of a BNP and/or an ANF and that includes search terms relevant to the disease condition recited in the claims (i.e., cardiomyopathy and myocarditis) is bound to result in art that is relevant not only to the diagnostic method of claim 1, but also to the diagnostic method of claim 23 and the method for monitoring therapeutic effectiveness covered by claim 22. It is Applicant's position that it would not constitute an

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undue burden for the Examiner to effectively search and examine claims 22 and 23 in addition to the elected claims.

Filed herewith is a Petition for Extension of Time being paid on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply all charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 14703-002001.

Respectfully submitted,



Lee Crews, Ph.D.
Reg. No. 43,567

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

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